

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

Crl.MC.No. 2434 of 2007()

CRIME NO.40/07 OF KALAMASSERY POLICE STATION

PETITIONER: ACCUSED:

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1. MANSOOR, AGED 30 YEARS,
S/O. ASHRAF, KALAVATH HOUSE, GEETHANJALI LINE,
CHALIKKAVATTOM, EDAPPALLY SOUTH VILLAGE.
 2. ASHRAF, AGED 52 YEARS,
S/O. KHADER, KALAVATH HOUSE, GEETHANJALI LINE,
CHALIKKAVATTOM, EDAPPALLY SOUTH VILLAGE.
 3. SUBAIDA, AGED 47 YEARS,
W/O. ASHRAF, KALAVATH HOUSE, GEETHANJALI LINE,
CHALIKKAVATTOM, EDAPPALLY SOUTH VILLAGE.

BY ADV. SRI.M.A.ABDUL HAKHIM

RESPONDENTS: COMPLAINANT, DEFACTO COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.
 2. REMI, AGED 22 YEARS,
D/O. HAMEED, ALAMPARAMBIL HOUSE,
NEENDUR ROAD, ETTUMANNUR.

BY P.P. SRI.GIKKU JACOB.
BY ADV. SRI.A.MOHAMMED FAIZAL

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CrI.M.C. NO.2434 OF 2007

Dated this the 30th day of July, 2007

ORDER

The petitioners are accused in a crime registered under Sec.498A read with Sec.34 of the IPC. The petitioners are the husband, father-in-law and mother-in-law respectively of the 2nd respondent/de facto complainant. The crime has been registered on the basis of a complaint filed before the Kalamassery police. Investigation is in progress.

2. At this stage, the petitioners have settled their disputes with the 2nd respondent. The 2nd respondent has allegedly compounded the offences allegedly committed by the petitioners. In these circumstances, neither the petitioners nor the 2nd respondent want to continue with the proceedings. They pray that the settlement/composition may be accepted and the proceedings initiated against the petitioners may be quashed. The 2nd respondent has entered appearance before

Crl.M.C. NO.2434 OF 2007 -: 2 :-

this Court through counsel and has filed an affidavit to confirm that the matter has been settled. Divorce has been effected. All monetary claims of the 2nd respondent have been settled, submits the learned counsel for the 2nd respondent.

3. I am satisfied from the submissions made at the Bar and the averments made in this Crl.M.C. as also the affidavit filed by the 2nd respondent/complainant that the parties have settled their disputes amicably and the 2nd respondent has compounded the offences allegedly committed by the petitioners. If legally permissible, I am satisfied that the composition can be accepted and the proceedings can be brought to premature termination invoking the powers under Sec.482 of the Cr.P.C.

4. The offence punishable under Sec.498A of the IPC is not compoundable. The learned counsel for the petitioners, in these circumstances, rightly relies on the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386). That decision is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be a fetter to the invocation of such power. The learned Public Prosecutor raises no objection.

Crl.M.C. NO.2434 OF 2007 -: 3 :-

5. This, I am satisfied, is an eminently fit case where the harmonious settlement of the disputes between the spouses can be accepted and the proceedings brought to premature termination.

6. In the result:

(i) This Crl.M.C. is allowed.

(ii) Crime No.40/07 of the Kalamassery Police Station registered at the instance of the 2nd respondent against the petitioners is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge